DEPARTMENT OF COMMERCE
National Telecommunications and Information Administration

DEPARTMENT OF AGRICULTURE
Rural Utilities Service

In the Matter of	)	
	)	
American Recovery and Reinvestment Act	)	Docket No. 090309298-9299-01
of 2009 Broadband Initiatives	)	
	)	

JOINT COMMENTS OF BARLING BAY, LLC AND CAPTION COLORADO

Barling Bay, LLC and Caption Colorado ("commenters", "we" or "us"), hereby submit written comments in response to the joint request of the National Telecommunications and Information Administration ("NTIA") and the Rural Utilities Service ("RUS") request for information issued on March 10, 2009.[1]

EXECUTIVE SUMMARY

The United States Congress enacted the American Recovery and Reinvestment Act of 2009 with a specific emphasis on encouraging further deployment of broadband and broadband related services across America. As part of this package Congress also instructed the NTIA and RUS to allocate no less than $250 million for innovative grants to support further adoption of broadband. As the agencies establish rules for the use of the specific innovative grant funds they should keep in mind specific goals, objectives and sub-populations where those funds can be most useful.

Specifically, the agencies should establish criteria for the use of innovative grant funds that create immediate short term and long term jobs, especially in rural areas. In

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[1] 74 Federal Register 10716, released March 12, 2009.

addition the agencies should focus on technologies, services or ideas for specific delivery and expansion of broadband use for education in urban and rural areas with a particular emphasis on isolated remote areas where the students often have fewer opportunities to take specialty courses, or in the case of special needs students, where they have few options for a quality education. Further, the agencies should look to innovative grant ideas that are technology, network and platform neutral and that are easily deployable, scalable and expandable. Finally, the agencies should look to ideas or technologies that recognize the coming growth of video on the Internet as the main medium. Also,   the agencies need to adopt specific measurement criteria that take all of the above selection criteria into account for post-grant award review.

Perhaps most important of all the agencies should be mindful when settling on a definition of "unserved" and "underserved" that for these innovative grant funds, at a minimum, the definitions should not be tied only to a level of technology or a geographic area. Rather the agencies should be mindful of historically unserved populations on the Internet including the deaf and hearing impaired communities and specific rural education limitations. We believe specific ideas and technologies can be brought forward within the context of the innovative technologies grant program to bring new services and ideas to these sub-populations.

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I.   <u>**INTRODUCTION**</u>

<u>Barling Bay, LLC</u>

Barling Bay, LLC is an 8(a) Program certified, Alaskan Native Company (ANC) owned by the Village of Old Harbor on Kodiak Island, Alaska. Old Harbor Native Corporation, the parent corporation for Barling Bay, was founded at the direction of Congress following the enactment of the Alaska Native Claims Settlement Act in 1971. Established in 2002, Barling Bay was accepted into the SBA 8(a) and SDB Programs in June of 2004, with an exit date of June 2013. We are a subsidiary of Three Saints Bay, LLC**.** Our Headquarters is located Anchorage, AK, our Corporate Office is in Charleston South Carolina, and our Government Services Division is in based in Arlington, Virginia. In addition we have offices in Texas, Washington, DC, Mexico City and in Colombia. Our mission is to provide leading edge solutions to customers, with a focus on Systems Engineering, Information Assurance / Security, Research and Development as well as Management and Administration.

As an Alaska 8(a) entity the company is tasked with the dual responsibility to grow and manage the assets of the Corporation for the benefit of its Alaska Native shareholders and preserve and protect the culture and traditions of the community. For the last several years the company has been focused on trying to create jobs for its shareholders residing is in rural communities. This has been a challenging task given the isolated and remote location of the community, the high cost of fuel and lack of reliable, cost effective and robust broadband connectivity. Old Harbor Native Corporation undertook to solve part of this problem by sponsoring through a related entity the

deployment of a robust fiber optic cable from Anchorage to Kodiak Island as a carrier's carrier. This project was completed in December 2006 and has been in full operation by third-party retail carriers since January 2007.[2] With the problem of robust connectivity now largely solved we are turning to creative ideas to support "information-base" job creation in our rural communities and other rural communities throughout Alaska. It is hoped that through the use of robust and reliable broadband connection we can help stem the out-migration of people and jobs from these rural communities while supporting the overall cultural goals and desires of Alaska's indigenous peoples.

<u>Caption Colorado</u>

Caption Colorado was founded in 1991 to provide free real-time captioning services for a local Denver television stations, KCNC-TV. The commitment was free real-time captioning services for one year for the benefit of the deaf and hard-of-hearing community in Colorado. Caption Colorado secured its first paying customer, WRC-TV in Washington, DC, one year later. At that time that Caption Colorado led the real-time captioning industry to a radically new low rate of $120 per hour. In the early 90's the closed captioning industry was a substantially subsidized industry with rates ranging from $400 to $1,000 per hour for real-time captioning. As a result of its competitive rate, Caption Colorado was able to secure a large portion of the growth in the industry over the next nine years and is now one of America's largest providers of real-time closed captioning services.

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[2] www.kkffl.info

Caption Colorado offers "real-time" closed captioning for television that utilizes unique technologies coupled with the talents of highly skilled captioners who use stenographic court reporting machines and/or speech recognition software to transcribe the audio on-the-fly, as the words are spoken by the broadcasters. Caption Colorado also offers IP based real time transcription and streaming services for a wide variety of services outside the television industry. Included among those services is its high quality real time captioning of the school classrooms or on-line education courses as they occur live. The service is used to increase the quality of the education or learning experience for all students and/or to serve other important needs of in-classroom and remote students or the special needs of deaf and hard of hearing students. Caption Colorado delivers its real time transcription to desk top or lap top computers located in the classroom or at homes or anywhere broadband Internet service is available. It also delivers a real time transcription to mobile hand held devices of students in the classroom, at home or anywhere the student is located or even if the student happens to be on the move. Its new capability of performing "Smart Searching of Video" on the Internet offers students access to a large source of video and cross-linked learning resources that are extremely beneficial to the learning process. Our Video Indexing and Searching Technologies also impacts a large number of Caption Colorado's other IP based services which tend to increase and multiply the use of video on the Internet and the use of the broadband networks that service the needs of video on the Internet.

II. **COMMENTS**

The commenters are focused primarily on two aspect of the public comment invitation the agencies put out in March. Specifically we will respond to question #6,

related to the use of funds under the Innovative Programs to Encourage Sustainable Adoption of Broadband Services and the definitions of "unserved" and "underserved" as it relates to key sub-population groups.

A.   INNOVATIVE PROGRAMS FUNDING

The NTIA and RUS asked two specific questions related to the Innovative Programs to Encourage Sustainable Adoption of Broadband Services. First the agencies asked for comments on *"what selection criteria should be applied to ensure the success of this program?"* Second the agencies asked for comments on *"what measures should be used to determine whether innovative programs have succeeded in creating sustainable adoption of broadband services?"*

i. Selection Criteria

We believe that specific and measurable criteria should be used to evaluate funding proposals with a specific evaluation of the types of groups, end users and end uses that proposals will support with Recovery Act funds. Proposals that meet stated objectives of the Act along with supporting specifically named groups, populations and entities should receive favorable review for funding requests. In addition, ideas and technologies that are technology neutral, deliverable across a wide range of platforms and that are quickly and efficiently scalable to anyone with broadband access should be the focus of NTIA and RUS funding for Innovative Grants.

The Recovery Act has multiple stated goals and objectives. For our purposes we believe Innovative Grant proposals should meet the following specific criteria:

Job Creation

Proposals should create jobs in the short term and be sustainable in the long-term. Job creation that NTIA and RUS should take into consideration include jobs to be created during the creation and roll out of innovative services and ongoing jobs that can be created and sustained using broadband capacity for the long term. We believe it is especially important to ensure "information based" jobs can be created in rural areas of the United States and that the deployment of both broadband infrastructure and supporting innovative grants should be targeted to assist rural job seekers to the greatest degree possible. In addition, submissions that seek to employ people on Tribal lands or in rural areas through Tribally sponsored enterprises should receive specialized treatment and priority review. The Recovery Act lists Tribes an automatically being qualified entities for purposes of submitting grant applications. We believe it was also Congress' intent to ensure such Tribes and Tribal entities are to be deemed automatically qualified for grant funds under the Innovative Programs grant pool. In addition, for purposes of the Innovative Grant funding we believe Tribes should be encouraged to team with private sector partners, including for-profit entities, to develop proposals that create jobs and that encourage sustainable adoption of broadband services.

Educational Services

We firmly believe one of the major opportunities to encourage the sustainable use of broadband technology is in the classroom and through ongoing educational instruction, both on-site and remotely. To that end we support final drafting of the Innovative Grant rules to include specific criteria looking favorably upon submissions that seek to bring innovative and supportive technology to the classroom. In addition, submissions that bring basic and enhanced educational opportunities to low-income, socially and

economically disadvantaged populations, rural students and geographically isolated populations – both in the classroom, at home and in a mobile setting- should receive favorable consideration from the agencies. Proposals that can connect students across location, income, race and ethnicity regardless of their physical locations should also be looked upon favorably by the agencies.

Easily Deployable; Technology Neutral; Scalable

NTIA and RUS should look favorably upon proposals that are quickly implementable and proposals that do not require Research and Development. As one of the main purposes of the Recovery Act was to encourage job creation with full deployment of funds within two years, only Innovative Grant proposals that can easily be deployed within 60 days of a grant award should be considered. Grant applicants should have to certify that their proposals use existing off-the-shelf technologies to be eligible for funds or "one-offs" of existing technologies that can be tailored to specific sub-population use within the short time limits of the grant award.

As with the larger portion of the grant funds that require a technology neutral approach, so too should this Innovative Grant pool. In other words, Innovative Grant submissions that rely on specifically named devices by manufacturer, or that are so severely restricted in their design or proposed specs so as to lead to an ultimate preferred vendor should be rejected by the agencies. With the increasing number of hardware providers and the openness of new platforms it does not make sense to use public funds to endorse one company's hardware over another.

Finally, and ultimately, applicants should have to demonstrate that their proposal is quickly scalable across various user platforms. Otherwise how can their proposal truly encourage "sustainable adoption of broadband services" if they can't scale it across platforms and across the web?

<u>Enhancing the Internet Experience and Usefulness</u>

Applicants should have to demonstrate their innovative proposal enhances user experiences while also increasing the usefulness of the Internet. Specifically we believe special consideration should be given to service ideas that enhance and encourage mobile broadband, again on a carrier and hardware neutral basis. Also, innovative proposal that seek to specifically bring new or expanded services to traditionally ignored groups, such as the deaf and hard of hearing populations, should automatically considered as eligible for funding under this specific grant pool. There are approximately 30 million deaf and hard of hearing persons in America so Innovative Grants that target this large population are likely to be meritorious if they meet other conditions of the grant rules and they truly bring new broadband based services to this population.

<u>Recognizing the Emergence of Video as the Next Main Internet Medium</u>

Grant applicants who fail to recognize and incorporate into their proposals a major focus on the delivery and use of video across the Internet should not be eligible for Innovative Grant funding consideration over those proposals that focus on video. The coming growth and spread of video across the web is soon to dwarf all other traffic combined. Therefore, successful grant applicants should demonstrate their proposals will both make efficient use of the move towards video and enhance the experience of video for end users.

ii. Measuring Success

Given the overall stated objectives contained in the Recovery Act, along with the final selection criteria to be adopted by the agencies we feel the measurement of success in funding Innovative Grant proposals should be fairly straight forward. Grant recipients should be able to demonstrate:

    (1)   <u>Jobs</u>

        a. the number and type of direct jobs created using the funds they received, including the amount and level of pay earned

        b. the timing of the job creation once they received award of the grant

        c. whether the jobs created were short term or long term

        d. the deployment of the program on Tribal lands or in conjunction with Tribal entities;

        e. the number of jobs created in rural areas

    (2)   <u>Education</u> - if there is an educational component to an innovative grant proposal recipients should report on

        a. the types of educational programs supported with the funds

        b. the number of students taking part

        c. the geographic distribution and spread of such students

        d. any successful metrics easily available on the academic progress of students in the program

        e. the level of education being offered by the program

f. whether and how many special needs, learning disabled or impaired students participated and at what level;

(3) <u>Scalability, Growth and Neutrality</u>

a. how quickly did the program grow in its adoption

b. are there true measurable goals for the next steps of growth in the program on a self-sustaining basis

c. how quickly did and can the project scale up to meet growth

d. was the program truly deployable across all platforms, networks, carriers and devices

(4) <u>Enhancing the Experience and Usefulness of the Internet</u>

a. Can the applicant demonstrate in a non-biased way that a user experience was truly enhanced

b. Can the applicant demonstrate in a non-biased way that the proposal was truly useful for multiple purposes and for multiple end users

c. Did the proposal reach out to historically ignore populations for job creation, education, entertainment and for other purposes

(5) <u>Recognition of Video as a Key Medium</u>

a. Did the grant actually make better use of the emergence of video as the main focal point of the Internet

b. Did the grant actually make video a more useful tool for various types of end users

(6)   <u>Mobility</u> – Did the grant enhance the ability for users to access information on the Internet using mobile devices, including multiple types and brands of mobile devices

(7)   <u>Combination of Grant Goals </u>– Did the grant leverage other funding sources contained in the Recovery Act specifically related to broadband, including both the deployment of new broadband infrastructure and funds set aside for Expanding Public Computer Center Capacity

IV.   DEFINITIONS

We have followed with some interest the ongoing debate surrounding the use of the terms "unserved" and "underserved" as it relates to the Recovery Act funding for broadband. It strikes us that almost every comment we have seen seems to focus either on location (rural vs urban), geography or the specific type of delivery mechanism for broadband (dial-up vs satellite vs fiber) in arguing whether someone is unserved. While this may be a legitimate discussion point for deciding where to deploy broadband infrastructure funds, it is not the proper focus when looking at "unserved" and "underserved" from a group or sub-population perspective. Specifically we believe for the purposes the Innovative Grant funding the definitions of "unserved" and "underserved" should be expanded to focus on groups not traditionally receiving services over the Internet and the types of improvements that can be made. In addition, users can be unserved if their access to services is not of a similar experience to those in urban areas, or from the perspective of students, similar to other students in a larger or better funded school setting.

For example, in the deaf and hard of hearing communities innovative technologies can be deployed to provide access to mobile applications and uses that heretofore have not been available to them. Further, innovative technologies should be supported to provide deaf students with a better in-class educational experience in a more efficient manner.

In addition, for rural students in poor school districts, or in those districts that are so small that they lack the resources to provide specialized classes for students seeking advance placement to college courses, we firmly believe they remain "unserved". This may not be due to a lack of physical broadband, but rather due to a lack of creative and innovative funding options to more effectively use broadband for the benefit of those students.

The main point of these and countless other examples is that for purposes of the Innovative Grant proposals the terms "unserved" and "underserve" should not be limited to geographic location or the way in which broadband is delivered. Rather, the definition should be expanded to include a review of the possible end user to decide whether they are underved from a basic or value-added service perspective, especially populations such as the deaf and hearing impaired and rural students.

V.   IN GENERAL

We believe that while Congress provided that "no less than $250,000,000" shall be set aside for innovative grants, we encourage the agencies not to put an overall cap on the dollar amount one submission may seek since the cost of scalability and outreach for truly innovative and successful ideas can be large. In order to encourage to open atmosphere and to get the best possible range of ideas on the table the agencies should

provide for no upper bound on the amount of funding a grant applicant is requesting and the agencies should consider awarding more than the $250 million Congress allocated if it receives enough truly meritorious funding ideas.

VI.   CONCLUSION

We believe it is critical that the agencies adopt rules to foster truly creative grant ideas that maximize sustainable job creation, create new opportunities for education, leverage partnerships with Indian Tribes, that are technology and platform neutral while enhancing user experience on the web with particular attention to the coming growth of video. As it relates to unserved and underserved areas, we believe agencies must look at populations that are varied and often overlooked rather than just looking at technical delivery definitions. By taking all of these comments into account the NTIA and RUS can truly help close the Digital Divide in America that exists among specific sub-populations in America.

Dated: April 13, 2009

DIGITALLY SIGNED AND ATTESTED

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